

2nd Discussion DRAFT – 08/14/2020
Redline and Comment/Response Version
Email comments by 9/14/2020 to CETA@commerce.wa.gov

Chapter 194-40 Clean Energy Transformation

194-40-010 – Purpose and scope. *(already in effect)*

The purpose of this chapter is to implement the requirements of the Clean Energy Transformation Act, chapter 19.405 RCW, and Chapter 19.280 RCW.

194-40-020 – Applicability. *(already in effect)*

Unless specifically provided otherwise, the provisions of this chapter apply to consumer-owned electric utilities that provide electrical service to retail customers in the state of Washington.

194-40-022 – Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

194-40-030 – Definitions.

Unless specifically provided otherwise, the terms defined in RCW 19.405.020 have the same meaning here.

<> “100% Clean Electricity Standard” means the standard established in RCW 19.405.050(1) and any requirements necessary for compliance with that standard.

<> “GHG neutral compliance period” means each of the periods identified in RCW 19.405.040(1)(a).

<> “GHG Neutral Standard” means the standard established in RCW 19.405.040(1) and any requirements necessary for compliance with that standard.

<> “Indicator” means an attribute, either quantitative or qualitative, of a resources or related distribution investments.

<> “Interim compliance performance period” means either of the following periods: (a) from January 1, 2022, until December 31, 2025, and (b) from January 1, 2026, until December 31, 2029.

<> “Interim target” means a target established in compliance with RCW 19.405.060(2)(a)(i). An interim target may cover an interim compliance performance period or a GHG neutral compliance period.

<> “Retail revenue requirement” means that portion of a utility's annual budget approved by its governing body that is intended to be recovered through retail electricity sales in the state of Washington in the applicable year. It includes revenues from any retail rate or charge that is necessary to receive electric service from the utility and does not include the effect of taxes imposed directly on retail customers.

<> “Verification protocol” means a procedure or method used, consistent with industry standards, to establish with reasonable certainty that a conservation, energy efficiency, or demand response measure was installed and is in service. Industry standards include a range of appropriate protocols reflecting a balance of cost and accuracy, such as tracking installation of measures through incentive payments and

Commented [A1]: This version of the 2nd draft rules attempts to show additions, deletions, and other changes compared to the 1st discussion draft published in April 2020. It also provides very brief summaries of key stakeholder comments and a response.

In some cases more than one stakeholder made similar comments, and not every commenter is identified here. In particular, many utilities submitted comments supporting the written comments of the Washington Public Utility Districts Association (WPUDA), and those supporting comments are not reflected in the brief notes here.

The full set of stakeholder comments is available on Commerce’s CETA rulemaking website.

Commented [A2]: NWECC: Adopt a new term, “clean energy standards,” that includes both the pre-2045 and post -2045 standards. It complicates the rules to use two distinct terms. Response: Not accepted. The statute establishes separate standards, and it is more straightforward to retain separate labels for each standard.

Commented [A3]: Climate Solutions, F&C, NWECC, WEC: add definition for indicator. Response: Added definition from UTC WAC 480-100-605.

the use of on-site inspection of measures installed as part of a customer-specific project. ~~[Expanded from definition in 194-37 to include demand response.]~~

194-40-040 – Performance and Compliance reporting for the GHG Neutral Standard* [Sec. 19.405.100(4)]²

- (1) Each consumer-owned utility and each investor-owned utility must submit an interim compliance performance report by July 1, 2026, and by July 1, 2030, documenting the utility's progress during the prior interim compliance performance period in reaching compliance with the GHG Neutral Standard beginning in 2030.
- (2) Each consumer-owned utility and each investor-owned utility must submit a compliance report by July 1, 2034, and within six months of the end of each subsequent GHG neutral compliance period, documenting the utility's compliance with the GHG Neutral Standard during the GHG neutral compliance period and its progress in reaching compliance with the 100% Clean Electricity Standard beginning in 2045.
- (3) Each consumer-owned utility and each investor-owned utility must submit a compliance report by July 1, 2046, and by July 1 of each year thereafter, documenting the utility's compliance with the 100% Clean Electricity Standard.
- (4) Each report required by this rule under subsections (1) and (2) must be submitted using a form provided by Commerce and must include the following information about compliance during the relevant interim compliance performance period or GHG neutral compliance period:
 - (a) The amount of renewable resources and nonemitting electric generation used during the period, as a percentage of retail electric loads, compared to the target amount established and reported in the CEIP of the utility for that period.
 - (b) The amount of conservation and energy efficiency resources acquired during the period, compared to the target amount established and reported in the CEIP of the utility for that period.
 - (c) The amount of demand response resources acquired during the period, compared to the target amount established and reported in the CEIP of the utility for that period.
 - (d) The amount of electricity used from renewable resources, as a percentage of the utility's retail electric loads over the period, compared to the target amount established and reported in the CEIP of the utility for that period. ~~All renewable resources must be documented by the retirement of RECs as provided in WAC 194-40-400 and WAC 19440-430.~~
 - (e) The amount of electricity used from nonemitting resources, as a percentage of the utility's retail electric loads over the period. ~~All nonemitting resources must be documented as provided in WAC 194-40-310.~~
 - (f) Identification of any resources other than a renewable resource or energy storage acquired during the period and demonstration that the acquisition was consistent with the requirements of . The utility must demonstrate that the acquisition of any such resource was necessary to achieve the interim target at the lowest reasonable cost, considering risk, as provided in WAC 194-40-340.

Commented [A4]: WPUDA: Replace "submit" with "provide." Commerce has no role in compliance and has not provided a reason to mandate submission of compliance reports.
Response: RCW 19.405.100(4) requires that Commerce adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with CETA.

Commented [A5]: WPUDA: Move report date to Oct. 1. Utilities need data from BPA and nine months provides more confidence utilities will have the information.
Response: This does not identify any specific information that is not available in time to meet the July 1 deadline.

Commented [A6]: WPUDA: Term "compliance" is not appropriate for the pre-2030 periods.
Response: Agree that "compliance" is not the most accurate term with respect to some questions, such as whether the utility met a pre-2030 target established in a CEIP. However, there are some requirements before 2030 for which "compliance" is an appropriate term. This draft uses "performance period" rather than "compliance period" for the pre-2030 periods.

Commented [A7]: NWECC, Renewable NW: Rules should include a requirement to report on compliance after 2045.
Response: Agree.

Commented [A8]: NWECC: Create a new term, "retail electric sales," that includes both electricity delivered to retail customers and the losses incurred in transmission, distribution, and storage. Apply targets and standards to retail electric sales.
Response: Not adopted. This is inconsistent with the statute. Targets and standards are based on electric load, which is defined in statute.

Commented [A9]: WPUDA: Allow utilities to substitute Energy Independence Act reports for CETA reports.
Response: Not adopted at this time. Commerce will be taking comments on opportunities to streamline EIA and CETA requirements.

Commented [A10]: Deleted as repetitive of the requirements in 400 and 430.

Commented [A11]: WPUDA: Remove requirement to retire RECs prior to 2030, because BPA indicated it will not provide RECs for hydro until 2030.
Response: This provision has been deleted because it duplicates requirements in sections 400 and 430. However, it is not limited to post-2030. The suggested change is overly broad compared to the stated concern.

Commented [A12]: Deleted as repetitive of the requirements of 310.

Commented [A13]: WPUDA: Exclude emergency generators acquired to allow continuation of vital services during periods of power outages or shortfalls.
Response: Needs further discussion. It would be in Section 340 if included.

Commented [A14]: WPUDA: Delete this provision. It duplicates the requirement in Section 340.
Response: The compliance or compliance report provides a comprehensive summary of the utility's actions under CETA. As noted by the stakeholder, the utility would have already estab... [1]

(g) A detailed report of any use of each of the following alternative compliance options:

(i) Alternative compliance payments.

(ii) Unbundled renewable energy credits. ~~All unbundled RECs must retired consistent with the requirements of WAC 194-40-400 and WAC 194-40-430 (double counting prohibited).~~

(iii) Credits from energy transformation projects.

(iv) Electricity from the Spokane municipal solid waste to energy facility (if it is determined to provide a net reduction in GHG emissions).

(h) Evidence ~~relied on by the utility to demonstrate, demonstrating that,~~ consistent with RCW 19.405.040(8) and ~~pursuant to~~ the CEIP for the period, all customers are benefitting from the transition to clean energy through:

~~(i) The equitable distribution of energy and non-energy benefits and;~~

~~(ii) Reduction of burdens to vulnerable populations and highly impacted communities;~~

~~(iii) Accounting of longLong-term and short-term public health and environmental benefits and reduction of costs and risks; and~~

~~(iiiiv) Energy security and resiliency.~~

(i) ~~A description of each indicator established in the CEIP and an explanation of how the specific actions taken by the utility are consistent with the requirements in RCW 19.405.040(8), including an analysis that the forecasted distribution of benefits and reductions of burdens accrued or will reasonably accrue to intended customers, including highly impacted communities and vulnerable populations~~

(j) ~~For each specific action identified in the CEIP for the period, pursuant to WAC 194-40-200(1) and WAC 194-40-200(4), a summary of the actions taken and their results.~~

(k) ~~For any measurement of achievement reported under subsections (a) through (e) that is less than the respective target established in the CEIP, an explanation of the variation from target and any intended actions to offset the variation in the next period.~~

(h) ~~Any other information necessary to demonstrate compliance with the requirements of CETA that are applicable during the period.~~

Commented [A15]: Deleted as repetitive of 400 (and 430 once adopted).

Commented [A16]: WPUDA: Replace “demonstrating” with “relied on by the governing board... to demonstrate...”
Response: Accepted with modification.

Commented [A17]: Updated to mirror statute and the UTC language in WAC 480-100-610. Ensure that final language lines up with UTC.

Commented [A18]: Climate Solutions, F&C, NWEC, WEC: add 194-40-200(4) requirements to compliance report and more accountability for compliance with 19.405.040(8).
Response: Agree. Using language from UTC WAC 480-100-650(1)(d).

Commented [A19]: Renewable NW: Require explanation of any differences between target and actual.
Response: Agree.

Commented [A20]: WPUDA: Replace “necessary” with “the utility governing board deems helpful”
Response: Not accepted. This subsection does not require the provision of any specific information and instead is an opportunity for the utility to provide additional information. That appears to be consistent with the intent of the suggested language, but the suggested language does not actually require anything.

Commented [A21]: Renewable NW, NWEC: Require biennial progress report in addition to CEIP. Allow utilities to modify targets.
Response: More discussion needed.

194-40-050 – Submission of clean energy implementation plan [19.405.060(2)]

- (1) Each utility must submit by January 1, 2022, and every four years thereafter, a clean energy implementation plan (CEIP) for resources to be acquired and other actions to be undertaken during the next ~~compliance-interim performance period or GHG neutral compliance~~ period to comply with the GHG Neutral Standard and the 100% Electricity Clean Standard. The CEIP must be submitted using a form provided by Commerce.

— Each utility must submit with its CEIP a summary of the public input process ~~conducted in compliance with WAC 194-40-220 and a description of how public comments were reflected in the specific actions under WAC 194-40-200(4) and other elements of the CEIP and the utility's, including a summary of public comment, conducted in compliance with WAC 194-40-220 and used in developing the CEIP requirements of WAC 194-40-200(4), and~~

- (2) ~~Each utility must submit~~ supporting integrated resource plan or resource plan, as applicable, ~~and a summary and analysis of public input received during the process.~~
- (3) ~~The CEIP must comply with the requirements of WAC 194-40-200 and must include sufficient detail to demonstrate compliance with the requirements of RCW 19.405.060.~~

Commented [A22]: WPUDA: This requirement exceeds Commerce's statutory authority, and Commerce has provided no rationale and has not explained why open public meeting requirements are insufficient.
Response: Please refer to the response to WPUDA comments concerning WAC 194-40-220.

194-40-060 – Reporting fuel mix and greenhouse gas emission [19.405.070(1)]

- (1) Each ~~consumer-owned utility and each investor-owned~~ utility must submit by ~~June~~ July 1, 2021, and each year thereafter a fuel mix source and disposition report for the previous calendar year, consistent with RCW 19.29A.140, using a form provided by Commerce.
- (2) Each utility must submit by ~~June~~ July 1, 2021, and each year thereafter a greenhouse gas content calculation for the previous calendar year.
- (a) The greenhouse gas content calculation must be based on the quantities and fuel sources, ~~including unspecified sources~~, of electricity identified in the source and disposition report required under subsection (1) and must include all generating resources providing service to retail customers of that utility in Washington state, regardless of the location of the generating resource.
- (b) The greenhouse gas content calculation must comply with the calculation requirements established by the Department of Ecology in Chapter 173-444 WAC.

Commented [A23]: WPUDA: Unnecessary to require compliance with another rule.
Response: Agree.

Commented [A24]: BPA: BPA is unable to provide its fuel mix information to utilities in time to meet a June 1 deadline. Suggest July 1.
Response: Agree.

194-40-110 – Methodologies to incorporate social cost of greenhouse gas emissions [19.280.030(3)]

- (1) (a) ~~Each utility that prepares an integrated resource plan under RCW 19.280.030(1) must~~ incorporate the social cost of greenhouse gas emissions as a cost adder for all relevant inputs when evaluating and selecting conservation policies, programs, and targets; developing integrated resource plans, ~~resource plans~~, and clean energy action plans; and evaluating and selecting intermediate term and long-term resource options.
- (b) ~~The greenhouse gas emissions cost adder must incorporate, to the extent feasible, all greenhouse gas emissions resulting from the generation of electricity using fossil fuels, including extraction, production, transmission, and combustion.~~
- (c) ~~The greenhouse gas emissions cost adder may not be adjusted to account for any explicit tax or fee on greenhouse gas emissions that is known or assumed in the resource analysis.~~
- (2) A utility may comply with the requirements of subsection (1) by using one of the following analytical approaches, as appropriate and consistent with the utility's overall analytical approach for resource ~~planning~~, evaluation, and selection:
- (a) Performing a resource analysis in which it increases the input cost of each fossil fuel by an amount equal to the social cost of greenhouse gas emissions value of that fuel;
- (b) Conducting a resource analysis in which alternative resource portfolios are compared across multiple scenarios on the basis of cost, risk, and other relevant factors and the aggregate social cost of greenhouse gas emissions is included in the cost of each resource portfolio;
- (c) ~~If the utility does not use a comprehensive resource portfolio evaluation and optimization approach:~~ Adding the social cost of greenhouse gas emissions to the expected market price of electricity, using an estimate of the emissions rate of marginal generating resources; or
- (d) Using another analytical approach that includes a comprehensive accounting of the difference in greenhouse gas emissions and social cost of greenhouse gas emissions between resource alternatives.

Commented [A25]: PGP: Recommend deleting "resource plans." GHG adder not required for those plans.
Response: Deleted.

Commented [A26]: NWEC, WEC, etc.: Specify that non-combustion emissions must be included in the analysis.
Response: Agree.

Commented [A27]: Added to increase consistency with UTC rule.

Commented [A28]: PGP: Clarify that a combination of approaches could be used by a utility.
Response: These are generally mutually exclusive options. To the extent they are not, that would fall under (2)(d) as long as it includes the required comprehensive approach.

- (3) Any methodology used to comply with this rule may assume that the social cost of greenhouse gas emissions cost adder does not affect short-term operations or dispatch decisions after energy resources are acquired and placed into service.
- (4) Any methodology used to comply with this rule must ensure that the social cost of greenhouse gas emissions cost adder is accounted for without unreasonable duplication or double counting. Examples of potential duplication include: (a) Applying the social cost of greenhouse gas emissions cost adder to fuel inputs and to electricity market prices that are derived from fuel costs, (b) Applying the social cost of greenhouse gas emissions cost adder to fuel inputs and resource portfolio outputs, and (c) Applying the social cost of greenhouse gas emissions cost adder and a carbon tax or fee.
- (5) The social cost of greenhouse gas emissions values used to meet the requirements of this rule are specified in WAC 194-40-100.

WAC 194-40-200 – Clean energy implementation plan [19.405.060]

- (1) **Specific actions.** Each utility must identify in each CEIP the specific actions to be taken by the utility during the next interim compliance performance period or GHG neutral compliance period to demonstrate progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and the interim targets proposed under subsections (2) and (3). Specific actions must be consistent with the requirements of RCW 19.405.060(2)(a)(iv).
- (2) **Interim target.** The CEIP must specify/establish an interim target for the percentage of retail load to be served using renewable and nonemitting resources during the period covered by the CEIP. The interim target must demonstrate progress toward meeting the standards under RCW 19.405.040(1) and RCW 19.405.050(1), if the utility is not already meeting the relevant standard.
 - (b) The interim target may provide for the use of alternative compliance options identified in RCW 19.405.040(1)(b).
 - (c) The interim target may reflect an assumption of median water conditions for the utility's owned or contracted hydroelectric resources.
- (3) **Specific targets.** The CEIP must establish/specify specific targets, for the interim compliance performance period or GHG neutral compliance period covered by the CEIP, for each of the following categories of resources:
 - (a) **Energy efficiency.** The utility must establish/specify a target for the amount, expressed in megawatt-hours of first-year savings, of energy efficiency resources expected to be acquired during the period. The energy efficiency target must comply with WAC 194-40-330(1).
 - (b) **Demand response resources.** The utility must specify a target for the amount, expressed in megawatts, of demand response resources expected to be acquired during the period. The demand response target must comply with WAC 194-40-330(2).
 - (c) **Renewable energy.** The utility's target for renewable energy must identify the increased quantity in MWh of renewable electricity to be used in the period, relative the average quantity of renewable electricity used in the four years prior to the period.
- (4) **Specific actions to ensure equitable transition.** The CEIP must describe specific actions of the utility to be taken during the period by the utility to ensure that all customers are benefiting from the transition to clean energy, as required by RCW 19.405.040(8). The CEIP must, at a minimum:

Commented [A29]: Examples were included in 1st draft to facilitate discussion.

Commented [A30]: WPUDA proposed "actions the utility intends to take." Statute says "to be taken."

Commented [A31]: COUs: Request pre-2030 interim periods not be referred to as "compliance periods."
Response: Accepted.

Commented [A32]: PGP: Make clear that proposed targets are not binding.
Response: This is reflected in 2nd draft language.

Commented [A33]: PGP: Statutory provisions concerning specific actions should be included in the rule.
Response: Added by reference.

Commented [A34]: WPUDA: Change "specify" to "propose."
Statute says COUs propose targets.
Response: This is an incomplete reading of the statute. It also says COU boards adopt the CEIP. The combination of proposing and adopting results in a target being established. (We changed "specify" to "establish" because of potential confusion with "specific" targets.)

Commented [A35]: WPUDA: Allow utilities to state the target as a range, citing the use of plural "targets" in statute.
Response: The better reading of the statute is that the plural refers to targets for multiple years or periods. We are not proposing to require annual targets within a performance period or compliance period.

Commented [A36]: PGP: Requirement to demonstrate progress does not apply to targets but does apply to specific actions.
Response: Reflected in the revised language.

Commented [A37]: Clarification requested by COUs.

Commented [A38]: WPUDA: These should be stated in reference to specific actions rather than targets, to be consistent with the statute.
Response: Agree.

Commented [A39]: WPUDA: Delete to provide more options for utilities.
Response: Industry practice, as reflected in EIA rules and reporting, is to express targets as the amount of savings in the first year a measure is acquired.

Commented [A40]: WPUDA: Setting a single metric is premature. ... [2]

Commented [A41]: COUs: There are situations where a utility's renewable resources would decrease and it would still be in compliance. ... [3]

Commented [A42]: WPUDA: The requirement to ensure customers benefit from the transition to clean energy applies to utilities. Commerce has no role or authority in this area. The ... [4]

Commented [A43]: Change suggested during informal conversation with utilities to clarify these are utility actions.

Commented [A44]: PGP: Remove subsection (4). The statute requires that CEIPs focus on standards in .040(1) and .050(1), rather than the entire sections 040 and 050. ... [5]

(a) Report the forecasted distribution of energy and non-energy costs and benefits for the utility's portfolio of specific actions, including impacts resulting from achievement of the specific targets established under subsection (3). The report must:

(i) include indicators, developed through a public process as part of the utility's long-term planning, for each element the provisions in RCW 19.405.040(8);

(ii) identify the expected effect of specific actions on highly impacted communities or vulnerable populations;

(iii) describe how the specific actions in the CEIP are consistent with the utility's longer-term strategies based on the analysis in 19.280.030(1)(k) and clean energy action plan in 19.280.030(1)(l); and

(iv) if the utility is subject to RCW 19.280.030(1), be informed by the most recent clean energy action plan and assessment described in RCW 19.280.030(1)(k) from the its most recent integrated resource plan.

(a) Assess the potential effect of the utility's planned resource acquisitions and programs on the distribution of energy and nonenergy benefits among the utility's customers. For example, any action, resource acquisition, or program that modifies the electricity consumption of individual customers has a potential positive or negative effect on the equitable distribution of energy and nonenergy benefits.

(b) Identify each highly impacted community, as defined in RCW 19.405.020(23), and the basis for its designation as either (i) a community designated by the department of health based on cumulative impact analyses or (ii) a community located in census tracts that are at least partially on Indian country.

(b) Identify the highly impacted communities, as defined in RCW 19.405.020(23), that are affected by the utility's operations and assess the potential effect of the utility's planned resource acquisitions and programs on the benefits and burdens of those communities.

(c) Identify vulnerable populations based on the adverse socioeconomic factors and sensitivity factors developed through a public process and describe and explain any changes from the utility's previous CEIP, if any; and

(c) Identify the vulnerable populations, as defined in RCW 19.405.020(40), that are affected by the utility's operations and assess the potential effect of the utility's planned resource acquisitions and programs on the benefits and burdens of those populations.

(d) Describe how the utility intends to mitigate risks to highly impacted communities and vulnerable populations; and

(d) Describe the potential effect of the utility's planned resource acquisitions and programs on (i) long term and short term public health and environmental benefits and (ii) energy security and resiliency.

(e) Describe the process of public participation in the development of the assessments required under this subsection (4) and provide a summary of public comments.

(e) Describe the process of outreach and public input conducted by the utility to make the assessments required by this subsection (4).

(5) Use of alternative compliance options. The CEIP must identify any planned use during the period of alternative compliance options, as provided for in RCW 19.405.040(1)(b).

(6) The CEIP must include a summary of public comments from the process conducted in

Commented [A45]: Climate Solutions, F&C, NWEC: COM should adopt approach to equitable distribution taken by UTC. Response: New language in (a)-(e) includes some language from UTC as indicated.

Commented [A46]: SnoPUD: Change "assess" to clarify that this is not the same assessment as is done for the IRP. Response: Agree. Changed to "report".

Commented [A47]: Climate Solutions, F&C, NWEC: COM should adopt approach to equitable distribution taken by UTC. Response: Language from UTC WAC 480-100-640(a)i-iii

Commented [A48]: F&C, NWEC, WEC: Add reference to reporting on indicators. Response: Added.

Commented [A49]: Climate Solutions, F&C, NWEC: COM should adopt approach to equitable distribution taken by UTC. Response: Language adapted from UTC WAC 480-100-640(6)(c).

Commented [A50]: Seemed repetitive with (iii)

Commented [A51]: Climate Solutions, F&C, NWEC, WEC: add definition for equitable distribution. Response: Added in lieu of definition using requirement from UTC definition in WAC 480-100-605.

Commented [A52]: Revised language in (a).

Commented [A53]: F&C: Provide specifics on identifying highly impacted communities. Response: Added.

Commented [A54]: Revised language in (b)

Commented [A55]: Revised language in (a)

Commented [A56]: F&C: Provide specifics on identifying vulnerable populations. Response: Added.

Commented [A57]: Climate Solutions, F&C, NWEC: COM should adopt approach to equitable distribution taken by UTC (... [6]

Commented [A58]: Revised language in (c).

Commented [A59]: F&C: Include risks and benefits. Response: Added.

Commented [A60]: Climate Solutions, F&C, NWEC: COM should adopt approach to equitable distribution taken by UTC (... [7]

Commented [A61]: Revised language in (d).

Commented [A62]: Collapsed all public participation reporting requirements into WAC 194-40-050(2).

Commented [A63]: Climate Solutions, F&C, NWEC: COM should adopt approach to public participation taken by UTC. (... [8]

Commented [A64]: Revised language in (e)

Commented [A65]: Collapsed all public participation reporting requirements into WAC 194-40-050(2).

Commented [A66]: PGP: Remove this requirement or modify it to be a certification that the utility held a public meeting. (... [9]

compliance with WAC 194-40-220 and a description of how those comments were reflected in the CEIP.

- (67) The CEIP must be consistent with the most recent integrated resource plan or resource plan, as applicable, prepared by the utility under RCW 19.280.030.
- (78) The CEIP must be informed by consistent with the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5).
- (89) The CEIP must identify the resource adequacy standard and measurement metrics adopted by the utility under WAC 194-40-210 and used in establishing the targets in its CEIP.
- (10) If the utility intends to comply using the 2% incremental cost approach specified applicable, the CEIP must include the information required in WAC 194-40-230, the CEIP must include the information required in WAC 194-40-230(3) and, if applicable, the demonstration required in WAC 194-40-350(2).
- (11) Any utility that is not subject to RCW 19.280.030(1) may meet the requirements of this section through a simplified reporting form provided by Commerce.

WAC 194-40-210 – Resource adequacy standard [19.280.030]

- (1) Each utility that is required to prepare an integrated resource plan under RCW 19.280.030(1) must establish by January 1, 2022, a standard for resource adequacy to be used in resource planning, including assessing the need and type of generating resources, storage resources, demand response resources, and conservation resources. The resource adequacy standard must be consistent with prudent utility practices and relevant regulatory requirements and must include reasonable and nondiscriminatory:
- Measures of adequacy, including peak load standards and loss of load probability,
 - Methods of measurement, including probabilistic assessments of resource adequacy at both a system and resource level, and
 - Probabilistic measures of resource contribution to resource adequacy such as effective load carrying capability applicable to all resources available to the utility, including but not limited to renewable, storage, hybrid, and demand response resources.
- (2) Each utility not subject to subsection (1) must identify by January 1, 2022, the resource adequacy standard relied on by the utility in preparing its resource plan and CEIP. A utility that establishes a resource adequacy standard that is inconsistent with the resource adequacy standard of the Northwest Power Planning Council and the resource adequacy program of the NW Power Pool must demonstrate that its standard meets the requirements of subsection (1) and does not burden customers of other utilities with a risk of inadequate resources.

WAC 194-40-220 – Public input for planning [19.405.060]

- (1) Each utility must establish and implement a public input process that provides reasonable opportunities for its customers and interested stakeholders to provide input to the utility during the development of, and prior to the adoption of, plans identifying actions to comply with RCW 19.405.040(8) and other requirements of RCW 19.405.040 and RCW 19.405.050. This requirement applies to a utility's development of its clean energy implementation plan, its

Commented [A67]: WPUDA: Suggest “consistent with” rather than “informed by.”
Response: Accepted.

Commented [A68]: WPUDA: Placeholder language to recognize that BPA full requirements customers have different circumstances compared to larger utilities.
Response: Agree, as a placeholder.

Commented [A69]: PGP: Do not adopt a rule addressing resource adequacy. Commerce has no legislatively delegated authority to establish rules related to resource adequacy metrics. Response: Resource adequacy is a fundamental element of CETA, and resource adequacy standards and metrics are necessary to ensure the proper implementation and enforcement. Commerce is authorized to adopt rules to ensure proper implementation and enforcement of CETA. The specific requirements proposed here provide flexibility to utilities.

Commented [A70]: Renewable NW: Without a specific requirement, utilities may rely too much on conventional ideas around resource adequacy and adopt standards that are inconsistent with each other and the power council. Utilities could end up relying on the same resources as each other, when those resources are insufficient to serve multiple utilities. RNW has recommended to UTC that utilities apply ELCC (effective load carrying capability) approach. It is important that utilities use a methodology that avoids the traditional under-valuing of renewable resources.
Response: Rule language revised to reflect suggested changes.

Commented [A71]: COUs: Premature to set resource adequacy standards. Law requires metrics not a standard. Power Coun[... [10]

Commented [A72]: Added to reduce burden on small utilities that rely entirely on BPA for electricity resources and must reply on BPA for the adequacy of those resources.

Commented [A73]: Renewable NW: Provide additional detail to reflect the use of probabilistic approach to resource adequacy and resource capability. [... [11]

Commented [A74]: See comment in (1) concerning reliance of small utilities on BPA.

Commented [A75]: NWEC: NW Power Pool program does not yet exist.
Response: Deleted.

Commented [A76]: Rule should not refer to power pool or power council standards.
Response: Deleted.

Commented [A77]: WPUDA: CETA requires a public meeting. This rule is beyond the scope of CETA and narrows the authority and discretion of utility boards. [... [12]

Commented [A78]: Climate Solutions, F&C, NWEC, WEC: COM should add public participation requirements from the [... [14]

Commented [A79]: PGP: Utilities already have robust public outreach plans associated with their integrated resource plan [... [13]

Commented [A80]: State Auditor: Language change to avoid any implication that existing public input processes cannot be used.
Response: Accepted.

integrated resource plan or resource plan, as applicable, and its clean energy action plan or 10 year action plan, as applicable.

- (2) In assessing whether a public input opportunity is reasonable, the utility must consider any barriers to public participation due to language, cultural, economic, technological, or other factors consistent with community needs.

Commented [A81]: Renewable NW: Add “technological.”
Response: Added

Commented [A82]: State Auditor: Language suggestions to help with auditability of this requirement.
Response: Accepted.

Commented [A83]: WPUDA: Do not adopt a rule at this time. It is not required by the end of 2020.
Response: Consider after review of comments on 2nd draft language.

Commented [A84]: NWEC: Conform to statutory language.
Response: Accepted.

Commented [A85]: NWEC: Include interim targets under 060(1).
Response: Accepted.

Commented [A86]: Renewable NW: Limit reference to subsections (1) of these two sections. Any CETA requirement that does not fall under 040(1) and 050(1) is not part of the incremental cost calculation and must be included in a utility’s baseline. This includes costs of resources procured due to SCGHG, costs of low-income assistance, and cost of eliminating coal-fired resources.
Response: Generally agree that the identified costs are not directly attributable costs. The rule refers to the entire sections 040 and 050 because compliance with subsections (1) are possible only by complying with other subsections of the relevant section.

WAC 194-40-230 – Compliance using 2% incremental cost threshold of compliance

- (1) For any interim compliance performance period or GHG neutral compliance period in which a utility relies on RCW 19.405.060(4)(a) to meet an interim target during an interim performance period or as the basis for compliance with the standard under RCW 19.405.040(1) or RCW 19.405.050(1), the utility must:
- (a) Document, as provided in this rule, incremental expenditures that are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050; and
 - (b) Demonstrate that the average annual increase in incremental expenditures, as a percentage of retail revenue requirement in each prior year, equals or exceeds 2 percent over the period.¹
- (2) For the purposes of compliance using RCW 19.405.060(4)(a), a resource acquisition or expenditure is directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and RCW 19.405.050 only if all of the following conditions are met:
- (a) The resource acquisition or other expenditure is made during the interim compliance performance period or GHG neutral compliance period;
 - (b) The resource acquisition or other expenditure is part of the lowest reasonable cost and reasonably available portfolio of resources that results in compliance with RCW 19.405.040 and RCW 19.405.050;
 - (c) The resource acquisition or other expenditure is additional to the costs that would be incurred for the lowest reasonable cost and reasonably available resource portfolio that would have been selected in the absence of RCW 19.405.040 and RCW 19.405.050; and
 - (d) The resource acquisition or other expenditure is not required to meet any statutory, regulatory, or contractual requirement or any provision of Chapter 19.405 RCW other than sections RCW 19.405.040 or 19.405.050.
- (3) The utility must include in its CEIP for the period the following information:
- (a) Identification of all resource acquisitions or other expenditures that it intends to make during the period in order to comply with the requirements of RCW 19.405.040 and 19.405.050;
 - (b) Demonstration that the resource acquisitions or expenditures identified in subsection (a) are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050, and

¹ Example calculation for subsection (1)(b):

Year	Retail Revenue Requirement	Directly Attributable Costs (DAC)	Revenue Increase Required to Recover DAC	Revenue Increase as a Percent of Prior Year Revenue Requirement	Average Increase as a Percent of Prior Year Revenue Requirement
0	100				1.9%
1	105	4	4	4.0%	
2	110	7	3	2.8%	
3	115	7	0	0.0%	
4	120	8	1	0.9%	

(c) Documentation of the expected cost of the utility's planned resource portfolio and the expected cost of the alternative lowest reasonable cost and reasonably available portfolio of investments.

- (4) The utility must include in the compliance report required by WAC 194-40-040 the following:
- (a) Documentation by year of the actual and lowest reasonable cost expenditures incurred during the period for the resource acquisitions or other expenditures identified in subsection (1)(a).
 - (b) Documentation by year of the cost that that the utility would have incurred to acquire the alternative lowest reasonable cost and reasonably available portfolio of investments.
 - (c) A calculation, for each year of the period and as an average for the period, of the annual increase in incremental costs directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and RCW 19.405.050, as a percentage of the retail revenue requirement in the year preceding that year.

- (5) If a resource acquisition or an alternative resource has a useful life or contract duration of greater than one year, expenditures on that resource must be allocated over the expected useful life or contract duration using a levelized cost or fixed charge factor.

- (6) The CEIP must substantiate the information required in subsection (3) using a comprehensive assessment of alternative resource portfolios, such as an integrated resource plan prepared in compliance with Chapter 19.280 RCW.

- ~~(6)(7)~~ A utility must include in all cost calculations under this rule the effects on resource selection and acquisition of the social cost of greenhouse gas emissions cost adder requirement under WAC 194-40-110. A utility may not include in the cost calculations any greenhouse gas emissions costs, fees, or taxes unless customers will pay those amounts through their electricity purchases.

- ~~(7)(8)~~ A utility must include in its calculation of incremental costs under subsection (4) a reasonable estimate of the effect of RCW 19.405.040 and 19.405.050 on wholesale power markets, such as any change in the utility's wholesale power expenses or revenues.

~~250—Interval for developing resource plans and integrated resource plans [19.280.030(8)] <No rule contemplated at this time>~~

~~260—Clean energy action plan [19.280.030(1)(i)]
<No rule contemplated at this time>~~

~~270—Action plan for small or full requirements utilities [19.280.030(5)(d)]
<No rule contemplated at this time>~~

~~280—Incorporation of cumulative impact analysis into clean energy action plans [19.280.030(1)(k) and (11)]
<To be developed>~~

194-40-300 – Documentation concerning coal-fired resources [19.405.030(1)]

- (1) Each utility must publish by June 1, 2027, and each year thereafter, an attestation by the chief executive officer, a properly authorized representative of the utility certifying that the utility's allocation of electricity for Washington retail electric load in the prior calendar year did not include any electricity generated at a coal-fired resource.
- (2) The purchase of electricity, where the source is unknown at the time of purchase, for a term not to exceed one month, is not a coal-fired resource and does not preclude a utility from making the attestation required by subsection (1).

Commented [A87]: NWECC: Use UTC language requiring portfolio optimization.
Response: This uses similar language.

Commented [A88]: NWECC: Require inclusion of SCGHG in alternative portfolio.
Response: Additional language clarifies that costs resulting from inclusion of SCGHG in resource evaluation are in both measures of cost and thus are not incremental to the compliant portfolio.

Commented [A89]: Renewable NW, NWECC: Clarify or remove this provision.
Response: Removed.

Commented [A90]: GGP: Defer rulemaking on this topic until the Carbon and Electricity Markets Stakeholder Workgroup has made recommendations.
Response: Consider after reviewing stakeholder comments on 2nd draft.

Commented [A91]: COUs: Provide more flexibility and allow for a utility representative with more direct knowledge of power transactions.
Response: Agree.

Commented [A92]: Renewable NW: The rule needs to prohibit use of multiple, consecutive 30-day contracts. Suggested language:
(4) Notwithstanding subsection (2), a utility may not make the attestation required by subsection (1) if it makes consecutive purchases of electricity, where the source is unknown at the time of purchase, such that the combined terms of the purchases exceed one month.
Response: Consider after receiving stakeholder comments on 2nd draft. It's unclear whether the suggested language would be applied to individual counter-parties or to all transactions of a utility. It is also unclear how the term "consecutive" would be applied when utilities are making short-term purchases on a virtually continuous basis.

(3) If the utility purchased or otherwise acquired electricity for Washington retail electric load for a term greater than one month and the source of that electricity is unknown at the time of purchase, the utility may rely on operational data, such as electronic tags used to schedule the transmission and delivery of the electricity, to demonstrate that the electricity was not generated using coal as a fuel source.

(3)(4) If a utility enters into a combination of transactions for unspecified electricity that might reasonably appear to be a substitute for a single purchase or acquisition for a term of more than one month, the utility must document the transactions in sufficient detail to demonstrate that the electricity from the transactions is not a coal-fired resource.

194-40-310 – Documentation of nonemitting electric generation [19.405.040(1)]

- (1) Any utility using nonemitting electric generation to comply with a requirement under RCW 19.405.040 or RCW 19.405.050 must demonstrate that it owns the nonpower attributes of that electricity and that it has committed to use the nonpower attributes exclusively for the stated compliance purpose.
- (2) A utility may demonstrate ownership of nonpower attributes using attestations of ownership and transfer by properly authorized representatives of the generating facility, all intermediate owners of the nonemitting electric generation, and the chief executive officer a properly authorized representative of the utility.
- (3) A utility may demonstrate ownership of the nonpower attributes of the nuclear portion of BPA's standard electricity product by relying on a representation of a properly authorized representative of BPA stating the nonemitting percentage of its electricity product and verifying that BPA did not separate the nonpower attributes associated with the nuclear generation.

194-40-320 – Use of electricity from renewable resources and nonemitting electric generation [19.405.040(1)]

- (1) For the purposes of RCW 19.405.040(1)(a)(ii), a utility uses electricity if it generated the electricity using its own generating facility or if it acquired, in a single transaction, ownership of the electricity and the nonpower attributes of that electricity. If the source of the electricity is outside the Western Interconnection, the utility must have had the capability to provide for delivery of that electricity to the utility's distribution system.
- (2) If a utility using electricity as provided in subsection (1) sells or transfers ownership of the electricity to any entity that is not its Washington retail customer, it may not use the nonpower attributes of that electricity for compliance with the GHG Neutral Standard unless the electricity transaction identified the electricity as unspecified electricity and the utility retained ownership of the nonpower attributes.

194-40-330 – Methodologies for energy efficiency and demand response resources [19.405.040(6)]

(1) Energy efficiency resources

(a) Assessment of potential

Commented [A93]: PGP: E-tags are not useful in demonstrating source.

Response: Deleted. E-tags remain a form of operational data and therefore could still be used if they demonstrate that the source is not coal.

Commented [A94]: WPUDA: Delete entire subsection. E-tags are often not resource specific and may not be useful.
Response: Deleted the specific reference to e-tags.

Commented [A95]: Renewable NW: Appreciate the clarification regarding use of operational data and e-tags.
Response: Specific reference to e-tags is deleted. This is a form of operational data and therefore could still be used if it demonstrates that the source is not coal.

Commented [A96]: Seeking comment on this provision to address the concern raised by Renewable NW.

Commented [A97]: COUs: Prefer less specific requirement.
Response: Agree.

Commented [A98]: See 194-40-410 below as an alternative approach, in which case this rule would not be adopted.

Commented [A99]: WPUDA: Delete requirements for assessing potential and allow EIA targets to be used for CETA.
Response: Continue to specify requirements for assessment of potential, which conforms with CETA. This will not interfere with utilities' ability to develop conservation potential assessments and targets for both laws using the same information and analysis.

(i) Any utility that is a qualifying utility under Chapter 19.285 RCW must assess the amount of energy efficiency and conservation that is available using the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection.

(ii) Any utility that is not a qualifying utility under Chapter 19.285 RCW must establish the amount of energy efficiency and conservation that is available using either of the following methods:

(1) Use the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection, or

(2) Establish the reasonable utility-level proportion of a conservation potential assessment prepared at a regional or multi-utility level using a methodology that evaluates resource alternatives on a total resource cost basis and includes the social cost of greenhouse gas emissions as specified in WAC 194-40-110.

(b) **Target.** The energy efficiency target for any interim performance period or GHG neutral compliance period must equal or exceed the target that would be calculated using the pro rata share approach specified in RCW 19.285.040(1)(b) and must be sufficient to ensure that the utility meets its obligation under RCW 19.405.040(6) to pursue all cost-effective, reliable, and feasible conservation and energy efficiency resources.

(c) **Measurement and verification.** All energy efficiency and conservation resources used to meet an energy efficiency target must be measured and verified using the measurement and verification requirements of WAC 194-37-080(3).

(2) Demand response resources

(a) **Assessment of potential.** Each utility must assess the amount of demand response resource that is cost-effective, reliable, and feasible.

(b) **Target.** The demand response target for any compliance period must be sufficient to meet the utility's obligation under RCW 19.405.040(6) and must be consistent with the utility's integrated resource plan or resource plan and any distributed energy resource plan adopted under RCW 19.289.100.

(c) **Measurement and verification.** Each utility must maintain and apply measurement and verification protocols to determine the amount of capacity resulting from demand response resources and to verify the acquisition or installation of the demand response resources being recorded or claimed.

194-40-340 – Acquisition of new resources other than renewable resources and energy storage [19.405.040(6)]

~~(1) A utility that may not acquire a new fossil fuel generating resource or new nonemitting electric generation must document through its integrated resource plan and any other analysis relied on in making its decision that unless the resource acquisition is consistent with meeting necessary to comply with the utility's targets under RCW 19.405.040 or the standard in RCW 19.405.050 and achieves targets at the lowest reasonable cost, considering risk. F~~

~~(2) A utility's making a resource acquisition subject to the requirements of subsection (1) must demonstrate compliance as follows:~~

~~(a) The utility's integrated resource plan must demonstrate that the resource acquisition complies with subsection (1), and~~

Commented [A100]: NWECC: Require compliance with methodology in RCW 19.285.040(1).
Response: Not required by statute, and it is unclear what benefit would result considering that the draft rule requires use of a TRC analysis.

Commented [A101]: WPUDA: Delete. Pro rata share will often not work for small or full requirements customers.
Response: Needs further explanation.

Commented [A102]: WPUDA: M&V might better be addressed in the reporting section.
Response: This rule addresses conservation and demand response comprehensively, including M&V requirements. These requirements are integral to the process of identifying, acquiring, and verifying resources.

Commented [A103]: WPUDA: Exempt BPA programs from this requirement.
Response: BPA's conservation programs are already used by some utilities subject to WAC 194-37-080, and there is no indication that utilities have been unable to comply with that rule.

Commented [A104]: WPUDA: Delete. Distributed resource plan is reflected in resource plan.
Response: The reference to distributed resource plans reduces potential confusion.

Commented [A105]: NWECC: Replace with "system value."
Capacity has many different meanings.
Response: Not accepted. System value also has many different meanings depending on context. The purpose of the M&V requirement is to ensure consistent with targets, which are required to be established and reported in MW units.

Commented [A106]: WPUDA: The WAC should exclude emergency generators acquired to allow the continuation of vital services during periods of power outages or shortfalls.
Response: Needs further discussion.

Commented [A107]: Energy NW: Including non-emitting resources is inconsistent with CETA. Section 5 establishes policy that nonemitting and renewable supply 100% of electricity.
Response: This rule section implements a specific provision in RCW 19.450.040(6), which establishes a limited priority of renewable resources and energy storage.

Commented [A108]: Renewable NW: Include reference to 050, which has the same language favoring renewable generation and storage.
Response: Agree.

Commented [A109]: WPUDA: Rewording suggested.
Response: Agree in part.

(b) An independent evaluator must confirm that the utility's resource acquisition complies with subsection (1). The independent evaluator must be qualified to perform electric resource evaluations and may not be affiliated with the utility or have participated in the utility's resource planning activities.

(3) For the purposes of this rule, a resource that commenced operation on or before May 7, 2019, is not a new resource.

194-40-350 – Use of alternative compliance options by utilities using 2% incremental cost threshold [19.405.060(4)(b)]

- (1) Except as provided in subsection (2), a utility may not use any alternative compliance option under RCW 19.405.040(1)(b) in any GHG neutral compliance period if it relies on RCW 19.405.060(4)(a) as the basis for compliance with the standard under RCW 19.405.040(1) or RCW 19.405.050(1).
- (2) A utility relying on RCW 19.405.060(4)(a) may use an alternative compliance option if:
 - (a) The utility demonstrates that no renewable resources or nonemitting electric generation was reasonably available; or
 - (b) The utility's uses renewable resources and nonemitting electric generation in an amount equal to at least 80 percent of its annual retail electric load during the period.

194-40-360 – Temporary exemption, demonstration of plan to achieve full compliance [19.405.090]

- (1) A utility must notify Commerce at least thirty days prior to consideration of action by the governing body to authorize a temporary exemption under RCW 19.405.090(5)(a). The notice must provide all information that the governing body will rely on in making a decision whether to authorize a temporary exemption.
- (2) If the governing body of a utility authorizes a temporary exemption under RCW 19.405.090(5)(a), the governing body must notify Commerce within 30 days of the action. The governing body's notice must include a plan to take specific actions to achieve full compliance with RCW 19.405.040(1).

Commented [A110]: WPUA: Impossible for an independent evaluator to assess. Any decision will involve tradeoffs that only the governing board could resolve.
Response: Removed this provision.

Commented [A111]: Renewable NW: Support retaining the requirement for an independent evaluator.
Response: Persuaded by arguments that the independent evaluator was not an effective review mechanism. The utility remains responsible for demonstrating compliance to the auditor.

Commented [A112]: NWECC: Insert this requirement in the incremental cost rule.
Response: Seems clearer to state it in a separate section.

Commented [A113]: WPUA: Recommend that the requested incremental cost workgroup address this section.
Response: Consider after receiving comments on 2nd draft language.

Commented [A114]: WPUA: This provision exceeds Commerce's statutory authority. The statute requires the utility to provide a plan to Commerce for achieving full compliance. It is impossible to provide a notice 30 days before an action since the action is not known until it is taken.
Response: The notice of intent to consider a temporary exemption is authorized under Commerce's authority in RCW 19.405.100(2). Revised rule language addresses the concern about action versus consideration of action.

194-40-400 – Documentation and retirement of renewable energy credits [19.405.040(1)(c)]

- (1) The Western Renewable Energy Generation Information System is the renewable energy credit tracking system for purposes of verification of RECs under chapter 19.405 RCW.
- (2) (a) Except as provided in subsection (b), each utility must verify and document by the retirement of RECs all electricity from renewable resources used to meet a target in an interim performance period or to comply with the requirements of RCW 19.405.040 or, RCW 19.405.050, or an interim target in a clean energy implementation plan.
(b) A utility is not required to comply with subsection (2)(a) for electricity from renewable resources used to meet a target in an interim performance period if: (i) The energy source for the generating facility is water; (ii) The generating facility is not registered in WREGIS or the WREGIS account holder for the generating facility verifies that no RECs have been created for the electricity used to meet CETA requirements; and (iii) The utility owned the generating facility or purchased the electricity directly from the owner of the facility or, in the case of federal generating facilities, from the Bonneville Power Administration.
- (3) Each utility using a REC for compliance under this chapter must document the following:
 - (a) The REC represents the output of a renewable resource;
 - (b) The vintage of the REC is a year within the applicable performance period or compliance period; and
 - (c) The utility has retired the REC to a retirement subaccount of the utility within WREGIS using the following values in the certificate transfer:
 - (i) Retirement type: Used by the account holder for a state-regulated renewable portfolio standard/provincial utility portfolio standard;
 - (ii) State/province: Washington; and
 - (iii) Compliance year: Within the applicable performance period or compliance period.
- (4) A utility may use any REC retired to comply with RCW 19.285.040 for the purposes identified in subsection (2) if the compliance year indicated in the retirement documentation of the REC is within the compliance period of the standard or target identified in subsection (2).

~~194-40-410 – Unbundled RECs used as an alternative compliance option under the GHG Neutral Standard [19.405.040(1)(c)]~~
~~<no rule contemplated at this point>~~

194-40-410 Use of renewable energy credits other than unbundled RECs

- (1) This rule applies to any REC, other than an unbundled REC, used to comply with the requirements of RCW 19.405.040(1)(a) or to demonstrate performance compared to an interim target established under RCW 19.405.060(1).
- (2) The utility must acquire the REC and the electricity associated with the REC in a single transaction through ownership or control of the generating facility or through a contract for purchase or exchange.
- (3) (a) The electricity associated with the REC must be generated by a generating facility located within the balancing authority area of the utility's Washington operations; or

Commented [A115]: COUs and BPA: Retirement of RECs for legacy hydro is a financial burden and not required by statute.
Response: Revised to provide an alternative not using RECs during the pre-2030 period. This is limited to the circumstances identified by utilities and BPA.

Commented [A116]: Commerce is seeking comment on this rule language as an alternative to the approach in draft WAC 194-40-320.

For ease of reference, an "unbundled REC" is defined in CETA as "a renewable energy credit that is sold, delivered, or purchased separately from electricity." The approach in this draft assumes that an unbundled REC does not include a REC acquired with its associated electricity, regardless of whether the utility uses the associated electricity to serve retail load or uses it for another purpose.

Subsections (3) and (4) are intended to establish a general requirement that renewable electricity counted for CETA compliance is used in the utility's provision of electric service in Washington and to do so without establishing a strict requirement that the utility prove that every MWh was delivered to retail customers. This is intended to allow reasonable flexibility in the management of generating resources that are procured for the purpose of serving Washington retail customers.

Subsection (5) is intended to ensure that claims on renewable resources are not double-counted between Washington and another state that does not rely on RECs for verification of renewable claims.

(b) The utility must acquire the electricity associated with the REC at one of the following points of delivery:

1. The transmission or distribution system of any utility serving Washington retail customers;
2. The transmission system of the Bonneville Power Administration; or
3. If the utility participates in an organized market in the Western Interconnection, the transmission system of any entity in that organized market; or
4. Another point of delivery designated by the utility for the purpose of subsequent delivery to the utility.

(4) The electricity associated with the REC must be included as a declared resource of the utility in its source and disposition report submitted in compliance with RCW 19.29A.140.

(5) A utility may not use a REC subject to this section if it has sold or otherwise transferred ownership of the associated electricity in a transaction that contractually specifies the source of the electricity by fuel source or as renewable.

194-40-420 – Safeguards to prevent double-counting of RECs [Sec. 4(1)(b), 13(3)]

<to be developed after markets workgroup concludes>

194-40-430 – Thermal RECs – Applicability [19.405.100(8)]

- (1) A thermal renewable energy credit may be used as an unbundled REC under RCW 19.405.040(1)(b) if it is created in association with the generation of qualifying thermal energy for a secondary purpose at a facility that generates electricity from biomass energy. For multiple-fuel facilities, only the portion of thermal energy generated from eligible biomass sources is eligible for the generation of a thermal REC.
- (2) Thermal energy may not be used to create a thermal REC if the thermal energy:
 - (a) is used to operate the generating facility or process the facility's fuel;
 - (b) is returned to the biomass conversion device that initially created the eligible thermal resource;
 - (c) bypasses the electricity generation device; or
 - (d) is produced while the electricity generation equipment is out of service.

194-40-440 – Thermal RECs - Measuring

- (1) Qualifying thermal energy must be measured and tracked using the following methods:
 - (a) **Large facilities:** Facilities with the capacity to generate one or more thermal RECs per hour of operation must install a thermal energy measurement system to continually measure qualifying thermal energy. The thermal energy delivered to the secondary purpose must be metered. All parameters needed to determine thermal energy delivered to the secondary purpose must be directly measured.
 - (b) **Small facilities:** Facilities with the capacity to generate less than one thermal REC per hour of operation must install a thermal energy measurement system to measure qualifying thermal energy delivered to the secondary purpose. Calculation parameters, such as heat capacity, and directly measured parameters, such as temperature and pressure, that do not vary more than two percent for the full range of expected operating conditions may be evaluated on an annual basis and used in the calculation methodology as a constant. These parameters may be based on such sources as

manufacturers' published ratings or one-time measurements, but must be clearly defined and explained in the thermal energy measurement plan required under subsection (2). All other parameters used to determine the amount of qualifying thermal energy must be continually measured. The generating facility must assess the significance of any potential error that the methodology parameters have on the total annual quantity of qualifying thermal energy and include this analysis in the thermal energy measurement plan. The generating facility must also submit to the department for approval in the thermal energy measurement plan an appropriate discount factor to be applied to the qualifying thermal energy calculation methodology, and the department may revise this discount factor to account for variance due to parameters that are not continually measured.

- (c) Any thermal energy measurement system used to comply with this rule must capture sufficient data, and make necessary calculations or provide all necessary data for calculations to be made using standard engineering calculation procedures, to determine the net thermal energy used by the secondary purpose over an interval specified in the thermal energy measurement plan.
 - (d) The components of a thermal energy measurement system must be installed in accordance with the manufacturer's specifications.
- (2) The operator of a thermal energy generating facility must submit to the department for its approval a thermal energy measurement plan that:
- (a) Describes the thermal energy generating equipment, secondary purposes, data measurements to be collected, all associated measurement devices, data formats and storage, data gathering techniques, measurement system calibration, calculation methodology, discount factors, and other relevant equipment and activities that will be used to determine the quantity of qualifying thermal energy.
 - (b) Includes documentation, including drawings, specifications, piping and instrumentation diagrams, and other information, sufficient to verify the compliance of the system with the requirements of this rule.
 - (c) Is prepared by or under the supervision of a licensed professional engineer, as indicated by the engineer's stamp.
- (3) The operator of a thermal energy generating facility must submit an updated thermal energy measurement plan and documentation for review and approval to the department upon the following:
- (a) Installation, removal or changes in the configuration of the thermal energy measurement system and its components;
 - (b) Installation of new thermal energy generation equipment or changes in thermal energy generation capacity;
 - (c) Installation or removal of secondary purpose equipment, changes to secondary purpose use, or changes in the secondary purpose maximum thermal energy demand; or
 - (d) Indications the thermal energy measurement system is not performing in accordance with the thermal energy measurement plan.

194-40-450 – Thermal RECs - Tracking

- (1) Where continual measurements are required to determine the quantity of qualifying thermal energy, the operator of the thermal energy generating facility must take data readings at least once per hour, or more frequently as necessary to capture irregular or frequently varying parameters. For all facilities, the qualifying thermal energy produced must be totaled for each 24-hour period, each month, and each quarter.
- (2) The operator of the generating facility must retain measured data and related thermal energy calculations on-site for five calendar years and make records available for audit.
- (3) Prior to measuring qualifying thermal energy for the purpose of generating thermal RECs, the operator of the generating facility must perform, or have performed, an initial calibration of the thermal energy measurement system and all associated measurement devices, or demonstrate that a calibration has been performed as specified by system component manufacturers or within the last 365 days of the application date for certification as compliant with these rules. All measurement devices shall be recalibrated annually or as specified by system component manufacturers to maintain specified accuracy. Calibrations must be performed using the calibration procedures specified by the meter manufacturer, calibration methods published by a consensus-based standards organization, or other industry accepted practice.
- (4) Individuals designing, installing, operating, and maintaining the thermal energy measurement system must have appropriate training and certification. The generating facility must maintain documentation of maintenance and calibration activities.

194-40-460 – Thermal RECs - Reporting

All thermal RECs are subject to the requirements of WAC 194-40-400.

194-40-500 – Energy burden and energy assistance need

510 – Energy assistance program requirements [Sec. 12(2)]

520 – Required disclosures by utilities [Sec. 12(3)]

530 – Utility assessment of energy assistance programs [Sec. 12(4)]

194-40-600 – Documentation of energy transformation projects [19.405.030(2)] <to be developed>

Page 2: [1] Commented [A14]**Author**

WPUDA: Delete this provision. It duplicates the requirement in Section 340.

Response: The compliance or compliance report provides a comprehensive summary of the utility's actions under CETA. As noted by the stakeholder, the utility would have already established its basis for acquiring the non-renewable resource. Providing this documentation in the report is reasonable.

Page 5: [2] Commented [A40]**Author**

WPUDA: Setting a single metric is premature.

Response: MW does not capture every aspect of a DR resource, just as MWh does not capture every aspect of an efficiency resource. However, to set a target a specific unit of measure is required, and MW is the most basic unit for this resource type.

Page 5: [3] Commented [A41]**Author**

COUs: There are situations where a utility's renewable resources would decrease and it would still be in compliance.

Response: Agreed. Added language in (2) that the utility demonstrate progress in setting its interim target and allowing for the situation where a utility's renewable/nonemitting generation already meets legal requirements.

Page 5: [4] Commented [A42]**Author**

WPUDA: The requirement to ensure customers benefit from the transition to clean energy applies to utilities.

Commerce has no role or authority in this area. The "all customers benefit" language is in 19.405.040 and not in the CEIP section. RCW 19.405.060(2)(b)(iii) is not relevant unless a utility adopts more stringent targets.

Response: RCW 19.405.100(3) authorizes Commerce to adopt rules for the proper implementation and enforcement of CETA, including the equitable transition provision in RCW 19.405.040(8). This rule provision is not intended to implement action taken under RCW 19.405.060(2)(b)(iii).

Page 5: [5] Commented [A44]**Author**

PGP: Remove subsection (4). The statute requires that CEIPs focus on standards in .040(1) and .050(1), rather than the entire sections 040 and 050.

Response: Compliance with RCW 19.405.040(1) requires compliance with RCW 19.405.040(8).

Page 6: [6] Commented [A57]**Author**

Climate Solutions, F&C, NWECC: COM should adopt approach to equitable distribution taken by UTC.

Response: Language adapted from UTC WAC 480-100-640(6)(b)

Page 6: [7] Commented [A60]**Author**

Climate Solutions, F&C, NWECC: COM should adopt approach to equitable distribution taken by UTC.

Response: Language from UTC WAC 480-100-640(6)(d)

Page 6: [8] Commented [A63]**Author**

Climate Solutions, F&C, NWECC: COM should adopt approach to public participation taken by UTC.

Response: Language adapted from UTC WAC 480-100-640(8)

Page 6: [9] Commented [A66]**Author**

PGP: Remove this requirement or modify it to be a certification that the utility held a public meeting.

Response: The comment summary is helpful in assessing sufficiency of specific actions adopted by the utility.

Page 7: [10] Commented [A71]**Author**

COUs: Premature to set resource adequacy standards. Law requires metrics not a standard. Power Council method may not be appropriate. Power Pool method is not yet known.

Response: Resource adequacy is a fundamental element of CETA, and utilities will need to articulate the resource adequacy standard as well as the metrics. Deleted the provisions accepting Power Council and Power Pool methods.

Page 7: [11] Commented [A73]**Author**

Renewable NW: Provide additional detail to reflect the use of probabilistic approach to resource adequacy and resource capability.

Response: Agree.

Page 7: [12] Commented [A77]**Author**

WPUDA: CETA requires a public meeting. This rule is beyond the scope of CETA and narrows the authority and discretion of utility boards.

Response: The CEIP public meeting is a minimum statutory requirement of CETA. Utilities are also required by RCW 19.280.050 to encourage public participation in the development of resource plans and integrated resource plans.

Neither the public meeting requirement for CEIPs nor the resource plan public participation statute precludes the adoption of additional public input requirements by rule. Commerce is authorized by RCW 19.405.100(2) to adopt rules to ensure proper implementation and enforcement of CETA.

CETA establishes broad and new public interest principles concerning clean and equitable energy, and it is reasonable to provide meaningful opportunities for customers and interested stakeholders. The requirement to ensure equitable results is one that cannot readily be assessed without input from those affected. The actual rule language provides COUs with flexibility in their public input activities and does not conflict with the open public meetings act. Indeed, this rule may be less stringent than the statutory requirement for public participation in RCW 19.280.050.

The public meeting requirement under Chapter 42.30 RCW does not obviate the need for public participation during the plan development process. This statute requires that final action by a board occur after notice and in public, but it does not guarantee an opportunity for public comment or testimony. Even where such opportunity is provided, it would occur at the conclusion of the utility's plan development and, by itself, would not provide an opportunity for a customer or stakeholder to offer input on the development of the plan. Finally, not all utilities subject to this rule are subject to the open public meetings act.

Page 7: [13] Commented [A79]**Author**

PGP: Utilities already have robust public outreach plans associated with their integrated resource plans.

Response: The rule does not require replacement of an existing public outreach process that provides reasonable opportunity for customers and stakeholders to provide input.

Page 7: [14] Commented [A78]**Author**

Climate Solutions, F&C, NWEA, WEC: COM should add public participation requirements from the UTC. In particular, Commerce should create a statewide equity advisory board.

Response: Commerce has included updates to public participation but has not adopted the UTC requirements given the different governance structures of the agencies.